

**SENATE, No. 1994**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED MARCH 3, 2022

**Sponsored by:**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

Provides tax credits to vineyards and wineries for qualified capital expenses.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/8/2022)**

1 AN ACT providing tax credits to vineyards and wineries for  
2 qualified capital expenses and supplementing Title 54A of the  
3 New Jersey Statutes and P.L.1945, c.162 (C.54:10A-1 et seq.).  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. As used in sections 2 through 4 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill):

10 "Director" means the Director of the Division of Taxation in the  
11 Department of the Treasury.

12 "Qualified capital expense" means any expenditure made by the  
13 taxpayer for the purchase and installation of equipment or agricultural  
14 materials for use in the production of agricultural products at a  
15 vineyard or winery, including:

- 16 a. barrels;
- 17 b. bins;
- 18 c. bottling equipment;
- 19 d. canopy management machines;
- 20 e. capsuling equipment;
- 21 f. chemicals;
- 22 g. corks;
- 23 h. crushers;
- 24 i. deer control fencing;
- 25 j. destemmers;
- 26 k. fermenters or other recognized fermentation devices;
- 27 l. fertilizer and soil amendments;
- 28 m. filters;
- 29 n. fruit harvesters;
- 30 o. fruit plants;
- 31 p. hoses;
- 32 q. irrigation equipment;
- 33 r. labeling equipment;
- 34 s. lugs;
- 35 t. mowers;
- 36 u. poles;
- 37 v. posts;
- 38 w. presses;
- 39 x. pruning equipment;
- 40 y. pumps;
- 41 z. refractometers;
- 42 aa. refrigeration equipment;
- 43 bb. seeders;
- 44 cc. soil;
- 45 dd. small tools;
- 46 ee. tanks;
- 47 ff. tractors;

1        gg. vats;  
2        hh. weeding and spraying equipment;  
3        ii. wine tanks;  
4        jj. wire; and  
5        kk. any other items as approved by the director in consultation  
6                with the Secretary of Agriculture.  
7        “Vineyard” means agricultural lands located in the State consisting  
8        of at least one contiguous acre dedicated to the growing of grapes or  
9        other fruit that are used or are intended to be used in the production of  
10       wine by a winery as well as any other plants or other improvements  
11       located thereon.  
12       “Winery” means a commercial farm where the owner or operator  
13       of the commercial farm has been issued and is operating in compliance  
14       with a plenary winery license or farm winery license pursuant to  
15       R.S.33:1-10.  
16  
17       2. a. For taxable years beginning on or after January 1, 2018, but  
18       before January 1, 2028, a taxpayer that is a vineyard or winery shall be  
19       allowed a credit against the tax imposed pursuant to the “New Jersey  
20       Gross Income Tax Act,” N.J.S.54A:1-1 et seq. in an amount equal to  
21       25 percent of the qualified capital expenses made in connection with  
22       the establishment of a new vineyard or winery or the capital  
23       improvements made to an existing vineyard or winery during each  
24       taxable year in which the qualified vineyard or winery is operated for a  
25       profit by the taxpayer.  
26       b. The total value of the grants of tax credits approved by the  
27       director, pursuant to subsection a. of this section and subsection a. of  
28       section 6 of P.L.     , c.     (C.     ) (pending before the Legislature as this  
29       bill), that may be applied against tax liability for a taxable year shall  
30       not exceed an aggregate annual limit of \$3,000,000. The total amount  
31       of tax credits allowed for a taxpayer by this subsection shall not  
32       exceed \$250,000, to be applied for over no more than a period of 10  
33       tax years. The amount applied against a tax liability for a taxable year  
34       for an individual vineyard or winery may not exceed \$50,000. If the  
35       amount of tax credits applied for by taxpayers in a taxable year,  
36       pursuant to sections 3 and 7 of P.L.     , c.     (C.     ) (pending before the  
37       Legislature as this bill), exceeds the aggregate annual limit of  
38       \$3,000,000, then a taxpayer who has first applied for and has not been  
39       allowed a tax credit amount for that reason shall be allowed, in the  
40       order in which they have submitted an application, their approved  
41       amount of tax credit on the first day of the next succeeding taxable  
42       year in which tax credits are issued pursuant to P.L.     , c.     (C.     )  
43       (pending before the Legislature as this bill) and are not in excess of the  
44       amount of credits available.  
45       c. The amount of credit allowed pursuant to subsection a. of this  
46       section shall be taken by the taxpayer to reduce the tax otherwise due  
47       and required to be paid for the taxable year to which the credit applies.

1 The amount of credit otherwise allowable pursuant to this section  
2 which cannot be applied for the taxable year against the tax liability  
3 otherwise due for that taxable year may either be carried over, if  
4 necessary, for the 10 taxable years following the taxable year for  
5 which the credit was allowed or, at the election of the taxpayer, be  
6 claimed as and treated as an overpayment for the purposes of  
7 N.J.S.54A:9-7, provided, however, that subsection (f) of that section  
8 shall not apply. A credit allowed pursuant to subsection a. of this  
9 section shall only be taken by the taxpayer to reduce the tax otherwise  
10 due and required to be paid for the taxable year in which the vineyard  
11 or winery is conducted or operated for a profit by the taxpayer.

12 d. A vineyard or winery that is classified as a partnership for  
13 federal income tax purposes shall not be allowed a credit directly, but  
14 the amount of credit of a taxpayer in respect of a distributive share of  
15 partnership income shall be determined by allocating to the taxpayer  
16 that proportion of the credit acquired by the partnership that is equal to  
17 the taxpayer's share, whether distributed, of the total distributive  
18 income or gain of the partnership for its taxable year ending within or  
19 with the taxpayer's taxable year except as otherwise provided by law.  
20 A qualified vineyard or winery that is a New Jersey S Corporation  
21 shall not be allowed a credit directly, but the amount of credit of a  
22 taxpayer in respect of a pro rata share of S Corporation income shall  
23 be determined by allocating to the taxpayer that proportion of the  
24 credit acquired by the New Jersey S Corporation that is equal to the  
25 taxpayer's share, whether or not distributed, of the total pro rata share  
26 of S Corporation income of the New Jersey S Corporation for its  
27 privilege period ending within or with the taxpayer's taxable year  
28 except as otherwise provided by law.

29

30 3. a. Notwithstanding the provisions of section 2 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
32 the contrary, a taxpayer shall not be permitted to take any credits  
33 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) to reduce or offset the New Jersey gross  
35 income tax liability that is incurred and required to be paid by the  
36 taxpayer in connection with the conduct or operation of a vineyard  
37 or winery unless the taxpayer has obtained prior written  
38 authorization from the director pursuant to this section.

39 b. The director shall establish an application process and  
40 prescribe the form and manner through which a taxpayer may make  
41 and file an application to obtain the director's written authorization  
42 for the allowance of a credit. The application shall, at minimum,  
43 require the taxpayer to demonstrate, in a form and manner as shall  
44 be prescribed by the director, that the qualified vineyard or winery  
45 for which the taxpayer is seeking the director's written  
46 authorization for the allowance of a credit is unrelated to the  
47 conduct or operation of any other business that was, or is currently,

1 conducted or operated by the taxpayer. If the vineyard or winery  
2 and any other business that was, or is currently, conducted or  
3 operated by the taxpayer are determined by the director to be related  
4 by common ownership, the use of similar business names,  
5 trademarks, or service marks, or the conduct of similar business  
6 activities or operations, then the taxpayer shall demonstrate that the  
7 vineyard or winery was not established or acquired for the purpose  
8 of enjoying the benefit of the credit.

9 c. The director shall review each application made and filed by  
10 a taxpayer pursuant to subsection b. of this section and make a  
11 determination regarding the approval of an application seeking the  
12 director's written authorization for the allowance of a credit within  
13 90 calendar days of the date a completed application is received.

14 d. The director shall issue a written authorization for the  
15 allowance of a credit to each taxpayer that made and filed a  
16 complete application that has been reviewed and approved by the  
17 director pursuant to subsection c. of this section within five  
18 calendar days of the date the director's determination is made.  
19 Each taxpayer issued a written authorization for the allowance of a  
20 credit shall include a copy of the director's authorization when  
21 filing a return that includes a claim for the credit allowed pursuant  
22 to section 2 of P.L. , c. (C. ) (pending before the Legislature  
23 as this bill).

24 e. If the director fails to make a determination regarding the  
25 approval of an application seeking the director's written  
26 authorization for the allowance of a credit within 90 calendar days  
27 of the date a complete application is received, or if the director fails  
28 to issue a written authorization for the allowance of a credit within  
29 five calendar days of the date the director's determination is made,  
30 the application shall be deemed to have been approved and the  
31 written authorization shall be deemed to have been issued by the  
32 director. Each taxpayer that made and filed a complete application  
33 pursuant to subsection b. of this section but fails to receive a  
34 determination from the director within 90 calendar days of the date  
35 a complete application is received, or fails to receive a written  
36 authorization for the allowance of a credit within five calendar days  
37 of the date the director's determination is made, shall include a  
38 copy of the taxpayer's application when filing a return that includes  
39 a claim for the credit pursuant to section 2 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill).

41  
42 4. Notwithstanding any provisions of the "Administrative  
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director  
44 may adopt immediately upon filing with the Office of  
45 Administrative Law, rules and regulations as the director  
46 determines to be necessary to effectuate the purposes of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill),

1 which shall be effective for a period not to exceed 360 calendar  
2 days following the effective date of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill) and may thereafter be amended,  
4 adopted, or readopted by the director pursuant to the requirements  
5 of “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
6 1 et seq.).

7  
8 5. As used in sections 6 through 8 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill):

10 “Acquiring corporation” means the constituent corporation the  
11 stockholders of which own the largest proportion of the total voting  
12 power in the surviving or consolidated corporation after the merger or  
13 consolidation.

14 “Director” means the Director of the Division of Taxation in the  
15 Department of the Treasury.

16 “Qualified capital expense” means any expenditure made by the  
17 taxpayer for the purchase and installation of equipment or agricultural  
18 materials for use in the production of agricultural products at a  
19 vineyard or winery, including:

- 20 a. barrels;
- 21 b. bins;
- 22 c. bottling equipment;
- 23 d. canopy management machines;
- 24 e. capsuling equipment;
- 25 f. chemicals;
- 26 g. corks;
- 27 h. crushers;
- 28 i. deer control fencing;
- 29 j. destemmers;
- 30 k. fermenters or other recognized fermentation devices;
- 31 l. fertilizer and soil amendments;
- 32 m. filters;
- 33 n. fruit harvesters;
- 34 o. fruit plants;
- 35 p. hoses;
- 36 q. irrigation equipment;
- 37 r. labeling equipment;
- 38 s. lugs;
- 39 t. mowers;
- 40 u. poles;
- 41 v. posts;
- 42 w. presses;
- 43 x. pruning equipment;
- 44 y. pumps;
- 45 z. refractometers;
- 46 aa. refrigeration equipment;
- 47 bb. seeders;

1 cc. soil;  
2 dd. small tools;  
3 ee. tanks;  
4 ff. tractors;  
5 gg. vats;  
6 hh. weeding and spraying equipment;  
7 ii. wine tanks;  
8 jj. wire; and  
9 kk. any other items as approved by the director in consultation  
10 with the Secretary of Agriculture.

11 “Vineyard” means agricultural lands located in the State consisting  
12 of at least 1 contiguous acre dedicated to the growing of grapes or  
13 other fruit that are used or are intended to be used in the production of  
14 wine by a winery as well as any other plants or other improvements  
15 located thereon.

16 “Winery” means a commercial farm where the owner or operator  
17 of the commercial farm has been issued and is operating in compliance  
18 with a plenary winery license or farm winery license pursuant to  
19 R.S.33:1-10.

20

21 6. a. For privilege periods beginning on or after January 1, 2018,  
22 but before January 1, 2028, a taxpayer that is a vineyard or winery  
23 shall be allowed a credit against the tax imposed pursuant to the  
24 “Corporation Business Tax Act,” P.L.1945, c.162 (C.54:10A-1 et seq.)  
25 in an amount equal to 25 percent of the qualified capital expenses  
26 made in connection with the establishment of a new vineyard or  
27 winery or the capital improvements made to an existing vineyard or  
28 winery during each privilege period in which the qualified vineyard or  
29 winery is operated for a profit by the taxpayer.

30 b. The total value of the grants of tax credits approved by the  
31 director, pursuant to subsection a. of this section and subsection a. of  
32 section 2 of P.L. , c. (C. ) (pending before the Legislature as this  
33 bill), that may be applied against tax liability for a privilege period  
34 shall not exceed an aggregate annual limit of \$3,000,000. The total  
35 amount of tax credits allowed for an individual vineyard or winery  
36 shall not exceed \$250,000, to be applied for over no more than a  
37 period of 10 privilege periods. The amount applied against a tax  
38 liability for a privilege period for an individual vineyard or winery  
39 may not exceed \$50,000. If the amount of tax credits applied for by  
40 taxpayers, pursuant to sections 3 and 7 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill), exceeds the aggregate  
42 annual limit of \$3,000,000, then a taxpayer who has first applied for  
43 and has not been allowed a tax credit amount for that reason shall be  
44 allowed, in the order in which they have submitted an application,  
45 their approved amount of tax credit on the first day of the next  
46 succeeding privilege period in which tax credits are issued pursuant to

1 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
2 are not in excess of the amount of credits available.

3 c. The amount of credit allowed pursuant to subsection a. of this  
4 section shall be taken by the taxpayer to reduce the tax otherwise due  
5 and required to be paid for the privilege period to which the credit  
6 applies. A credit allowed pursuant to subsection a. of this section shall  
7 only be taken by the taxpayer to reduce the tax otherwise due and  
8 required to be paid for the privilege period in which the vineyard or  
9 winery is conducted or operated for a profit by the taxpayer.

10 d. The amount of the credit applied pursuant to this section  
11 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
12 (C.54:10A-5), for a privilege period, when taken together with any  
13 other credits allowed against the tax imposed pursuant to section 5 of  
14 P.L.1945, c.162 (C.54:10A-5) shall not reduce the tax liability of a  
15 taxpayer for a privilege period to an amount less than the statutory  
16 minimum provided in subsection (e) of section 5 of P.L.1945, c.162  
17 (C.54:10A-5). Except as provided in subsection e. of this section, the  
18 amount of credit otherwise allowable under this section which cannot  
19 be used to reduce the taxpayer's corporation business tax liability for  
20 the privilege period may either be carried over, if necessary, for the 10  
21 privilege periods following the privilege period for which the credit  
22 was allowed or, at the election of the taxpayer, be claimed as and  
23 treated as an overpayment for the purposes of R.S.54:49-15, provided,  
24 however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not  
25 apply.

26 e. A taxpayer may not carry over any amount of credit allowed  
27 under subsection a. of this section to a privilege period during which a  
28 corporate acquisition with respect to which the taxpayer was a target  
29 corporation occurred or during which the taxpayer was a party to a  
30 merger or a consolidation, or to any subsequent privilege period, if the  
31 credit was allowed for a privilege period prior to the year of  
32 acquisition, merger, or consolidation, except that if in the case of a  
33 corporate merger or corporate consolidation, the taxpayer can  
34 demonstrate, through the submission of a copy of the plan of merger or  
35 consolidation and any other evidence that may be required by the  
36 director, the identity of the constituent corporation which was the  
37 acquiring corporation, a credit allowed to the acquiring person may be  
38 carried over by the taxpayer.

39

40 7. a. Notwithstanding the provisions of section 6 of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
42 the contrary, a taxpayer shall not be permitted to take any credits  
43 pursuant to section 6 of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill) to reduce or offset the New Jersey  
45 corporation tax liability that is incurred and required to be paid by  
46 the taxpayer in connection with the conduct or operation of a

- 1 vineyard or winery unless the taxpayer has obtained prior written  
2 authorization from the director pursuant to this section.
- 3 b. The director shall establish an application process and  
4 prescribe the form and manner through which a taxpayer may make  
5 and file an application to obtain the director's written authorization  
6 for the allowance of a credit. The application shall, at minimum,  
7 require the taxpayer to demonstrate, in a form and manner as shall  
8 be prescribed by the director, that the qualified vineyard or winery  
9 for which the taxpayer is seeking the director's written  
10 authorization for the allowance of a credit is unrelated to the  
11 conduct or operation of any other business that was, or is currently,  
12 conducted or operated by the taxpayer. If the vineyard or winery  
13 and any other business that was, or is currently, conducted or  
14 operated by the taxpayer are determined by the director to be related  
15 by common ownership, the use of similar business names,  
16 trademarks, or service marks, or the conduct of similar business  
17 activities or operations, then the taxpayer shall demonstrate that the  
18 vineyard or winery was not established or acquired for the purpose  
19 of enjoying the benefit of the credit.
- 20 c. The director shall review each application made and filed by  
21 a taxpayer pursuant to subsection b. of this section and make a  
22 determination regarding the approval of an application seeking the  
23 director's written authorization for the allowance of a credit within  
24 90 calendar days of the date a completed application is received.
- 25 d. The director shall issue a written authorization for the  
26 allowance of a credit to each taxpayer that made and filed a  
27 complete application that has been reviewed and approved by the  
28 director pursuant to subsection c. of this section within five  
29 calendar days of the date the director's determination is made.  
30 Each taxpayer issued a written authorization for the allowance of a  
31 credit shall include a copy of the director's authorization when  
32 filing a return that includes a claim for the credit allowed pursuant  
33 to section 6 of P.L. , c. (C. ) (pending before the Legislature  
34 as this bill).
- 35 e. If the director fails to make a determination regarding the  
36 approval of an application seeking the director's written  
37 authorization for the allowance of a credit within 90 calendar days  
38 of the date a complete application is received, or if the director fails  
39 to issue a written authorization for the allowance of a credit within  
40 five calendar days of the date the director's determination is made,  
41 the application shall be deemed to have been approved and the  
42 written authorization shall be deemed to have been issued by the  
43 director. Each taxpayer that made and filed a complete application  
44 pursuant to subsection b. of this section but fails to receive a  
45 determination from the director within 90 calendar days of the date  
46 a complete application is received, or fails to receive a written  
47 authorization for the allowance of a credit within five calendar days

1 of the date the director's determination is made, shall include a  
2 copy of the taxpayer's application when filing a return that includes  
3 a claim for the credit pursuant to section 6 of P.L. , c. (C. )  
4 (pending before the Legislature as this bill).

5  
6 8. Notwithstanding any provisions of the "Administrative  
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director  
8 may adopt immediately upon filing with the Office of  
9 Administrative Law, rules and regulations as the director  
10 determines to be necessary to effectuate the purposes of P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill), which  
12 shall be effective for a period not to exceed 360 calendar days  
13 following the effective date of P.L. , c. (C. ) (pending before  
14 the Legislature as this bill) and may thereafter be amended,  
15 adopted, or readopted by the director pursuant to the requirements  
16 of "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
17 1 et seq.).

18  
19 9. This act shall take effect immediately.  
20

## 21 22 STATEMENT 23

24 This bill provides credits against the New Jersey gross income tax  
25 and corporation business tax, as applicable, to vineyards and wineries  
26 for qualified capital expenses, as defined in the bill, in an amount  
27 equal to 25 percent of the qualified capital expenses made in  
28 connection with the establishment of a new vineyard or winery or the  
29 capital improvements made to an existing vineyard or winery during  
30 each taxable year or privilege period in which the qualified vineyard or  
31 winery is operated for a profit by the taxpayer.

32 Under the bill, a "qualified capital expense" means all expenditures  
33 made by the taxpayer for the purchase and installation of equipment or  
34 agricultural materials for use in the production of agricultural products  
35 at a vineyard or winery, but not for use on preserved farmland,  
36 including examples of which are provided in the bill.

37 The amount of credit allowed is to be taken by the taxpayer to  
38 reduce the tax otherwise due and required to be paid for the taxable  
39 year to which the credit applies. A credit is only to be taken by the  
40 taxpayer to reduce the tax otherwise due and required to be paid for  
41 the taxable year in which the vineyard or winery is conducted or  
42 operated for a profit by the taxpayer.

43 The bill would provide that the total value of the grants of tax  
44 credits approved by the Director of Taxation (director) that may be  
45 applied against a gross income and corporation tax liability for a  
46 privilege period shall not exceed an aggregate annual limit of  
47 \$3,000,000. Each gross income taxpayer or individual vineyard or

1 winery paying corporation business tax would be allowed a total of  
2 \$250,000 in tax credits to be taken over a 10 year period, and no more  
3 than \$50,000 per tax year or privilege period, as applicable. If the  
4 amount of tax credits applied for by taxpayers exceeds the aggregate  
5 annual limit of \$3,000,000, then a taxpayer who has first applied for  
6 and has not been allowed a tax credit amount for that reason would  
7 then be allowed, in the order in which they have submitted an  
8 application, their approved amount of tax credit on the first day of the  
9 next succeeding privilege period in which tax credits are issued and  
10 are not in excess of the amount of credits available.

11 The bill permits a taxpayer, who is allowed a gross income tax  
12 credit pursuant to the bill but whose gross income tax liability in the  
13 taxable year in which the credit is received is less than the amount of  
14 the credit, to either:

15 1) carry forward the unapplied portion of the credit and apply the  
16 credit to the gross income tax liability of the taxpayer in the next 10  
17 taxable years; or

18 2) receive the unapplied portion of the credit as a refund.

19 The bill provides that a taxpayer who is allowed a corporation  
20 business tax credit pursuant to the bill may not reduce the taxpayer's  
21 corporation business tax liability in a privilege period to an amount  
22 less than the applicable statutory minimum provided by law.

23 Under the bill, a taxpayer is not to be permitted to take any credits  
24 to reduce or offset the New Jersey gross income tax liability or  
25 corporation tax liability that is incurred and required to be paid by the  
26 taxpayer in connection with the conduct or operation of a vineyard or  
27 winery unless the taxpayer has obtained prior written authorization  
28 from the director. The director is to establish an application process  
29 and prescribe the form and manner through which a taxpayer may  
30 make and file an application to obtain the director's written  
31 authorization for the allowance of a credit.

32 Under the bill, the director is to review each application made and  
33 filed by a taxpayer and make a determination regarding the approval of  
34 an application seeing the director's written authorization for the  
35 allowance of accredit within 90 calendar days of the date a complete  
36 application is received. The director is to issue a written authorization  
37 for the allowance of a credit to each taxpayer that made and filed a  
38 complete application that has been reviewed and approved by the  
39 director within five calendar days of the date the director's  
40 determination is made. Each taxpayer issued a written authorization  
41 for the allowance of a credit is to include a copy of the director's  
42 authorization when filing a return that includes a claim for the credit.  
43 If the director fails to make a determination regarding the approval of  
44 an application seeking the director's written authorization for the  
45 allowance of a credit within 90 calendar days of the date a complete  
46 application is received, or if the director fails to issue a written  
47 authorization for the allowance of a credit within five calendar days of

**S1994 CRUZ-PEREZ, BEACH**

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1 the date the director's determination is made, the application is to be  
2 deemed to have been approved and the written authorization is to be  
3 deemed to have been issued by the director. Each taxpayer that made  
4 and filed a complete application but fails to receive a determination  
5 from the director is to include a copy of the taxpayer's application  
6 when filing a return that includes a claim for the credit allowed.